House Study Bill 222 - Introduced

HOUS	SE FILE
ВУ	(PROPOSED COMMITTEE ON
	GOVERNMENT OVERSIGHT BILL
	BY CHAIRPERSON KAUFMANN)

A BILL FOR

- 1 An Act modifying provisions applicable to the construction,
- 2 erection, maintenance, or operation of electric transmission
- lines, and including effective date and applicability
- 4 provisions.
- 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. Section 478.3, subsection 3, Code 2015, is
- 2 amended to read as follows:
- 3 3. For the purpose of this section chapter, the term
- 4 "public" when used in relation to public interest, public use,
- 5 or needs of the public shall not be interpreted to refer to and
- 6 be limited to consumers located in this state.
- 7 Sec. 2. Section 478.4, Code 2015, is amended to read as
- 8 follows:
- 9 478.4 Franchise hearing.
- 10 1. The utilities board shall consider the petition and
- 11 any objections filed to it in the manner provided. It shall
- 12 examine the proposed route or cause any engineer selected
- 13 by it to do so. If a hearing is held on the petition it may
- 14 hear testimony as may aid it in determining the propriety of
- 15 granting the franchise. It may grant the franchise in whole or
- 16 in part upon the terms, conditions, and restrictions, and with
- 17 the modifications as to location and route as may seem to it
- 18 just and proper. Before granting the franchise, the utilities
- 19 board shall make a finding that the proposed line or lines are
- 20 necessary to serve a public use and represents a reasonable
- 21 relationship to an overall plan of transmitting electricity in
- 22 the public interest. A franchise shall not become effective
- 23 until the petitioners shall pay, or file an agreement to pay,
- 24 all costs and expenses of the franchise proceeding, whether
- 25 or not objections are filed, including costs of inspections
- 26 or examinations of the route, hearing, salaries, publishing
- 27 of notice, and any other expenses reasonably attributable to
- 28 it. The funds received for the costs and the expenses of the
- 29 franchise proceeding shall be remitted to the treasurer of
- 30 state for deposit in the department of commerce revolving fund
- 31 created in section 546.12 as provided in section 476.10.
- 32 2. A finding of public use and public interest shall not be
- 33 made in regard to a petition for a franchise or an extension
- 34 of franchise if the petition sets forth that the exercise of
- 35 the right of eminent domain will be used and if the petition

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- 1 is filed by or involves a merchant transmission line or
- 2 company that sells less than fifty percent of the electricity
- 3 transmitted through this state by the line or company to a
- 4 public utility located within this state. For purposes of
- 5 this subsection, "merchant transmission line or company" means
- 6 an entity that generates and transmits, or solely transmits,
- 7 electricity. For purposes of this subsection, "public utility"
- 8 means the same as defined in section 476.1.
- 9 Sec. 3. NEW SECTION. 478.34 Severability.
- 10 If any provision of this chapter or its application to any
- ll person or circumstance is held invalid or otherwise rendered
- 12 ineffective by any entity, the invalidity or ineffectiveness
- 13 shall not affect other provisions or applications of this
- 14 chapter that can be given effect without the invalid or
- 15 ineffective provision or application, and to this end the
- 16 provisions of this chapter are severable.
- 17 Sec. 4. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
- 18 immediate importance, takes effect upon enactment.
- 19 Sec. 5. APPLICABILITY. This Act is applicable to petitions
- 20 for franchise or extension of franchise filed on or after
- 21 November 1, 2014, which have not been acted upon by the
- 22 board on the effective date of this Act, and to petitions for
- 23 franchise or extension of franchise filed on or after the
- 24 effective date of this Act.
- 25 EXPLANATION
- The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.
- This bill modifies provisions applicable to the
- 29 construction, erection, maintenance, or operation of electric
- 30 transmission lines contained in Code chapter 478.
- 31 In determining whether to grant a petition for a franchise to
- 32 construct, erect, maintain, or operate an electric transmission
- 33 line, the Iowa utilities board is required to find that, among
- 34 other requirements, the proposed line or lines are necessary
- 35 to serve a public use and represents a reasonable relationship

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- 1 to an overall plan of transmitting electricity in the public
- 2 interest. The bill provides that a finding of public use and
- 3 public interest shall not be made in the event a petition for
- 4 a franchise or an extension of franchise sets forth that the
- 5 exercise of eminent domain will be used and the petition is
- 6 filed by or involves a merchant transmission line or company
- 7 that sells less than 50 percent of the electricity transmitted
- 8 through this state by the line or company to a public utility
- 9 located within Iowa. The bill defines a "merchant transmission
- 10 line or company" to mean an entity that generates and
- 11 transmits, or solely transmits, electricity through this state.
- 12 The bill defines a "public utility" by referencing a definition
- 13 contained in Code section 476.1, subsection 3, paragraph "a",
- 14 as meaning any person, partnership, business association, or
- 15 corporation, domestic or foreign, owning or operating any
- 16 facilities for furnishing gas by piped distribution system or
- 17 electricity to the public for compensation.
- 18 Additionally, current Code section 478.3, specifying
- 19 franchise petition requirements, provides that for the
- 20 purposes of that Code section, the term "public" shall not be
- 21 interpreted to be limited to consumers located in Iowa. The
- 22 bill modifies this provision to instead specify that the term
- 23 "public" as used in Code chapter 478 in reference to public
- 24 use, interest, and needs shall refer to and be limited to
- 25 consumers located in this state.
- 26 Further, the bill contains a severability provision
- 27 providing that if any provision of Code chapter 478 or its
- 28 application to any person or circumstance is held invalid or
- 29 otherwise rendered ineffective by any entity, the invalidity
- 30 or ineffectiveness shall not affect other provisions or
- 31 applications of the Code chapter that can be given effect
- 32 without the invalid or ineffective provision or application,
- 33 and to this end the provisions of the Code chapter are
- 34 severable.
- 35 The bill takes effect upon enactment and applies to

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- 1 petitions for franchise or extension of franchise filed on
- 2 or after November 1, 2014, which have not been acted upon by
- 3 the board on the bill's effective date, and to petitions for
- 4 franchise or extension of franchise filed on or after the
- 5 bill's effective date.